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78 MONTEVIDEO 2227

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ACTION APA-14

INFO OCT-01 ISC-00 EA-05 AID-05 CIAE-00 DODE-00 PM-05

H-01 INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01

SP-02 SS-15 USIA-06 IO-13 MCT-01 /CSE W

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FM AMEMBASSY MONTEVIDEO

TO SECSTATE WASHDC PRIORITY 5664

INFO AMEMBASSY ASUNCION

3 0 0 N F I D E N T I A L SECTION 1 OF 2 MONTEVIDEO 2237

P.O. 11652: GDS

TAGS: SHUM, OAS, JY

SUBJ: THE GOU'S PERCEIVED PROBLEMS WITH THE INTER-AMERICAN
HUMAN RIGHTS COMMISSION (IAHRC)

REF: A) 77 STATE 143416 (NOTAL) B) MONTEVIDEO 124

C) MONTEVIDEO 2227

1. SUMMARY. THE LIST OF THE GOU'S PERCEIVED PROBLEMS WITH THE IAHRC IS LONG. AND CONCEPNS BOTH PROCEDURAL/LEGAL AND SUBSTANTIVE ISSUES, COMPLICATED BY PERSONALITY CONFLICTS WHICH HAVE ARISEN DURING THE ACRIMONIOUS EXCHANGES OF THE PAST YEAR. WHAT THE GOU SEES AS THE "ISSUES" DO NOT APPEAR TO BE INSURMOUNTABLE OBSTACLES TO AN AGREEMENT BETWEEN THE TWO PARTIES. WITH GOOD WILL AND CALM AND REASONED DISCUSSION, THE ISSUE COULD BE RESOLVED. END SUMMARY.

2. THE GOU'S PERCEIVED PROBLEMS WITH THE IAHRC, EXPRESSED PUBLICLY IN SUCH FORA AS THE VII OAS GA IN GRENADA (REF A), AND IN RECENT PRIVATE CONVERSATIONS WITH EMBASSY OFFICIALS (REFS B AND C), CAN BE ARBITRARIILY DIVIDED INTO THREE BROAD GROUPINGS, AS FOLLOWS:

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A. PROCEDURAL/LEGAL.

1. REFORM OF THE IAHRC IS NEEDED, WITH NEW PROCEDURAL STANDARDS AND SAFEGUARDS REQUIRED TO REGULATE MORE CLOSELY THE WORK OF THE IAHRC, WHICH HAS BEEN GUILTY OF NUMEROUS PROCEDURAL ERRORS.

2. THE GOU HAS COMPLIED WITH ALL REQUESTS FOR INFORMATION FROM THE IAHRC WHICH THAT BODY IS PERMITTED BY ITS STATUTES TO MAKE. HOWEVER, THE GOU WILL NOT FURNISH CERTAIN DOCUMENTS (SUCH AS COPIES OF AUTOPSY REPORTS ON PERSONS ALLEGED TO HAVE DIED IN DETENTION) WHICH IT IS NOT OBLIGATED TO SUBMIT. A LIMITED NUMBER OF OTHER DOCUMENTS CANNOT BE PROVIDED FOR REASONS OF INTERNAL SECURITY.

3. THE IAHRC HAS NEVER ANSWERED VARIOUS QUESTIONS POSED ON VARIOUS OPPORTUNITIES BY THE GOU.

4. IAHRC REPORTS SHOULD NOT BE PREPARED BY

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EXCISE

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY L Ma DATE 7

PORTIONS DENIED AS INDICATED

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OUTSIDE CONSULTANTS (AS WAS THE REPORT ON URUGUAY).
E. THE IAHRC NEVER FORMALLY REQUESTED A
VISIT IN 1980 AS REQUESTED BY ITS STATUTES BUT,
INSTEAD, ASKED TO BE INVITED TO URUGUAY, AN UNHEARD
OF PROCEDURE.

F. THE IAHRC INVESTIGATION OF URUGUAY WAS
NEVER APPROVED BY A FULL COMMISSION VOTE, AS RE-
QUESTED BY THE STATUTES, BUT WAS UNDERTAKEN ON THE
SOLE INITIATIVE OF COMMISSION CHAIRMAN AGUILAR.

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E. SUGGESTATIVE.

1. THE IAHRC DOES NOT UNDERSTAND THE GRAVITY
OF THE MASSIVE SURVEYSIVE THREAT FACED IN THE PAST
AND STILL FACED IN UNRESOLVED FORM BY THE GOV, NICES-
STATING "WARTIME MEASURES FOR THE DEFENSE OF THE
REPUBLIC."

2. HUMAN RIGHTS AND TERRORISM MUST BE
CONSIDERED JOINTLY; SURVEYSION AND TERRORISM ARE
SPREADING DAILY AND MUST BE DEALT WITH COORDINATELY.

3. THE IAHRC NEVER RAISED ITS VOICE WHEN
URUGUAY WAS UNDER SURVEYSIVE ATTACK, AND THE HUMAN
RIGHTS OF ITS CITIZENS WERE VIOLATED ON A DAILY BASIS.

4. THE IAHRC ALLEGED THERE HAD BEEN GRAVE
AND REPEATED VIOLATIONS OF HUMAN RIGHTS BY THE GOV,
BUT FAILED TO PROVE ANY. THUS, THERE IS NO LEGAL
OR MATERIAL JUSTIFICATION FOR AN INSPECTION IN 1980

WEIGH 1. AN EXCEPTIONAL MEASURE.

G. CHARGES OF HUMAN RIGHTS VIOLATIONS BY
THE GOV ARE THE RESULT OF AN INTERNATIONAL NAZIIST-
LEVINIST CAMPAIGN.

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C O M M U N I T I A L SECTION 2 OF 2 MONTEVIDEO 0237

6. THE HUMAN RIGHTS ISSUE HAS BECOME HEAVILY POLITICIZED, AND SOME OAS MEMBER STATES HAVE BASED THEIR ACCUSATIONS AGAINST URUGUAY NOT ON COMITY OF INTERNATIONAL LAW, BUT ON POLITICAL CONSIDERATIONS.

7. THE IAHRC, BY ACTING IN A MANNER INCONSISTENT WITH ITS STATUTES, IS INTERVENING ILLEGALLY IN THE INTERNAL AFFAIRS OF SOVEREIGN STATES.

8. THE IAHRC HAS WISHED TO CONVERT ITSELF INTO A SUPRA-NATIONAL JUDGE AND JURY, WITH THE HEMISPHERE'S NATIONS THE DEFENDANTS, AN UNACCEPTABLE POSITION.

9. IN ITS ACTIONS AFFECTING URUGUAY, THE IAHRC HAS SHOWN ITSELF TO BE PARTIAL, SUBJECTIVE, UNJUST, AND IN ERROR. THE GOU ASKS THE IAHRC TO RECOGNIZE THE ERRORS CONTAINED IN ITS REPORT. SURELY INADVERTENT OR RESULTING FROM A LACK OF INFORMATION, AND TO GIVE SATISFACTION TO THE GOU, DEMONSTRATING A CONCRETE AND POSITIVE NEW ATTITUDE.

3. COMMENT: THE GOU'S COMPLAINTS AGAINST THE IAHRC ARE NUMEROUS AND VARIED. MANY, ESPECIALLY IN THE "SUBSTANTIVE" CATEGORY, SEEM TO BE LARGELY RHETORICAL

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RESTATEMENTS OF GOU POSITIONS, WHICH ARE DISCORDANT
BUT DO NOT NECESSARILY HAVE TO BE HARMONIZED WITH
THE IAERC. IN PUBLIC STATEMENTS AND IN DISCUSSIONS
WITH EMBASSY OFFICERS (E.G. REFTEIS E AND C), GOU
MILITARY AND CIVILIAN OFFICIALS HAVE EMPHASIZED ALLEGED
IAERC VIOLATIONS OF ITS STATUTES, THE ERRORS OF ITS
REPORT ON HENCHAY AND THE UNACCEPTABILITY OF CHAIRMAN
AGUIAR

B5

B1 ED

ALTHOUGH
WHICH WE CONSIDER TO BE UP FRONT, AND PRESUMABLY THE
MOST IMPORTANT, DO NOT APPEAR TO BE INSURMOUNTABLE
OBSTACLES TO AN AGREEMENT. WE ARE OPTIMISTICALLY
INCLINED TO BELIEVE, THEREFORE, THAT, WITH GOOD WILL
ON BOTH SIDES AND CALM, REASONED DISCUSSIONS, THE
IMPASSE BETWEEN URUGUAY AND THE IAERC CAN BE RESOLVED
SATISFACTORILY.
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